

**MEMORANDUM OF AGREEMENT BY AND BETWEEN THE TOWN OF ATHERTON
AND FACEBOOK, INC. REGARDING THE MENLO PARK FACEBOOK CAMPUS PROJECT**

2nd July THIS MEMORANDUM OF AGREEMENT (this "Agreement") is entered into as of this *2nd* day of June, 2012 (the "Effective Date"), by and between the TOWN OF ATHERTON, a California municipal corporation ("Atherton"), and FACEBOOK, INC., a Delaware corporation ("Facebook"). *MRW*

RECITALS

THIS AGREEMENT is entered into on the basis of the following facts, understandings and intentions of the parties:

A. Facebook has proposed a two-phase project for the location of its corporate headquarters in Menlo Park (both phases, collectively, the "Project"). The first phase of the project relates to the approximately 56.9-acre parcel of real property commonly known as 1601 Willow Road, Menlo Park, California (the "East Campus"). The second phase relates to the re-development of the approximately 22-acre site located across Bayfront Expressway from the East Campus at 312 and 313 Constitution Drive, Menlo Park, California (the "West Campus").

B. For the East Campus, the Project includes (among other things) a modification of the existing conditional development permit that governs the East Campus so that the East Campus may be occupied in accordance with the existing 3,600 employee cap or a new vehicle trip cap that would include a maximum of 2,600 trips during the AM and PM peak periods and 15,000 trips on a daily basis. For the West Campus, the Project includes the demolition of the existing buildings located at the West Campus and development of 440,000 square feet of new office buildings and amenity structures.

C. To enable implementation of the Project, the City of Menlo Park ("MP") has considered and will consider various legislative and administrative actions, including, without limitation, enabling ordinances for development agreements, a resolution adopting an amended and restated conditional development permit, a resolution adopting a conditional development permit, a resolution certifying the Environmental Impact Report for the Project (the "Project EIR"), an addendum to or other environmental documentation concerning the Project EIR, resolutions adopting heritage tree removal permits, resolutions adopting findings under the California Environmental Quality Act ("CEQA") and resolutions adopting statements of overriding considerations. The preceding legislative and administrative actions together with any other approvals and permits that are necessary or desirable to enable implementation of the Project are, collectively, referred to as the "Project Approvals".

D. Atherton has voiced concerns and objections regarding the impacts of the Project on Atherton, particularly with respect to the Marsh Road and Middlefield Road intersection. Atherton and Facebook now desire to resolve Atherton's concerns and objections regarding the Project including, without limitation, the Project EIR. To that end, Facebook has proposed payment to Atherton of funds and the provision of other public benefits as described herein. In exchange, Atherton has agreed to not file an action or proceeding challenging the Project or any of the Project Approvals as further described herein.

NOW, THEREFORE, the parties do hereby agree as follows:

1. Facebook agrees to provide Atherton the following benefits (collectively, the "Atherton Benefits"):

a. Within 30 days of the satisfaction of the Conditions Precedent (defined below), Facebook will make a one-time payment of \$350,000 (the "One-time Payment") to Atherton. Atherton will use the One-time Payment to mitigate traffic impacts (including associated costs of study, design, administration and contingencies) at the Marsh Road and Middlefield Road intersection in full satisfaction of Mitigation Measure TR-6.2c in the Project EIR, without any admission on the part of Atherton that such mitigation is adequate, appropriate or feasible. The decision of whether or how to mitigate traffic impacts at the Marsh Road and Middlefield Road intersection, and to what extent, shall be in Atherton's sole and absolute discretion. If Atherton elects not to mitigate traffic impacts at the Marsh Road and Middlefield Road intersection or to do so in a manner that does not require the full expenditure of the One-time Payment, then Atherton will retain the One-time Payment (or any remaining portion thereof) and may use the funds for bicycle, pedestrian and traffic calming improvements or in any other matter it determines, in its sole and absolute discretion. Atherton will not be required to segregate the One-time Payment from its other funds. Atherton agrees that (i) Facebook's payment of the One-time Payment will satisfy in full Facebook's obligation to mitigate traffic impacts at the Marsh Road and Middlefield Road intersection or any other impacts of the Project in Atherton, (ii) Atherton will not seek from MP or any other governmental agency, including itself, further studies, reports, reviews, mitigations, fees or exactions in connection with the Project or the Project Approvals and (iii) if MP requires Facebook to prove that it has satisfied its obligation under the Project EIR to mitigate its traffic impacts at the Marsh Road and Middlefield Road intersection, to cooperate with Facebook in confirming those facts.

b. At Atherton's request, Facebook will engage a consultant who, in collaboration with Atherton's city staff, will review and recommend bike paths and routes along Middlefield Road from Marsh Road to Glenwood Avenue and along Alameda de las Pulgas; provided, however, that Facebook shall not be obligated to spend more than \$10,000 on its obligation pursuant to this Section 1.b. In addition, for a period of two years commencing with the Effective Date, Facebook agrees to make its transportation manager reasonably available from time-to-time to discuss possible future bike improvements in Atherton with Atherton's Public Works Director; provided, however, that except for the One-time Payment (which Atherton may elect to use to make bike improvements) Facebook is not obligated to contribute any funds towards future bike improvements.

c. At Atherton's request, Facebook will engage a consultant to work with Atherton's Public Works director on other transportation initiatives; provided, however, that Facebook shall not be obligated to spend more than \$5,000 on its obligation pursuant to this Section 1.c.

d. At Atherton's request, Facebook will assist Atherton with use of and upgrades to its technology program through the utilization of intra-Facebook resources. This assistance might include donating used computers for use at Atherton's City Hall or providing social media consulting so that Atherton can establish and improve its Facebook page. Facebook's obligation under this Section 1.d will continue for a period of two years commencing with the Effective Date. Facebook will not be obligated to incur any out-of-pocket expenses in providing the benefit described under this Section 1.d.

2. Facebook will not be obligated to provide any of the Atherton Benefits until the 1601 Willow Road Development Agreement (the "DA") has been executed by all parties and all challenges to the Project Approvals finally certified and approved by the Menlo Park City Council on June 5, 2012 (collectively, the "June Approvals"), the DA and the portions of the Project described in the June Approvals and/or the DA have been resolved. If no litigation or referendum is commenced challenging (a) the Menlo Park City Council's certification and/or approval of the June Approvals, (b) the DA, and/or (c) the portions of the Project described in the June Approvals and/or the DA, then Facebook's obligation will vest on September 6, 2012. If litigation and/or a referendum is commenced before September 6, 2012 challenging (i) the Menlo Park City Council's certification and approval of the June Approvals, (ii) the DA, and/or (iii) the portions of the Project described in the June Approvals and/or the DA, then

Facebook's obligation will vest on the date of final, non-appealable resolution of all litigation and resolution of the referendum in a manner that is reasonably acceptable to Facebook (as applicable). Any resolution of litigation or avoidance of a referendum involving an agreement executed by Facebook shall constitute final resolution in a manner reasonably acceptable to Facebook for purposes of this Section 2. The conditions described in this Section 2 shall, collectively, be referred to as the "Conditions Precedent". If Facebook withdraws the Project due to challenges to the June Approvals, the DA and/or the portions of the Project described in the June Approvals and/or the DA, then this Agreement will terminate and neither Party shall have any further obligations hereunder.

3. Unless this Agreement is terminated pursuant to Section 2, Atherton shall refrain from filing any complaint, petition for writ of mandate or other judicial or administrative action or proceeding objecting to or otherwise challenging the Project or the Project Approvals and will not join any other party's efforts which are intended to undermine or interfere with the Project's ability to proceed pursuant to the Project Approvals. Moreover, Atherton will not join in or encourage such a challenge by any other agency, entity or individual. Atherton's obligations pursuant to this Section 3 will apply regardless of whether the design or plan for the West Campus is altered, the circumstances under which the Project is undertaken are substantially changed or any new information of substantial importance is discovered, so long as the final design for the West Campus does not include office buildings and amenity structures totaling more than 440,000 square feet.

4. Each of the parties to this Agreement may pursue any remedy at law or equity available for the breach of any provision of this Agreement, including, but not limited to, temporary or permanent injunctive relief or restraining orders.

5. This Agreement contains the entire understanding and agreement of the parties. There are no oral or written representations, understandings, undertakings or agreements that are not contained or expressly referred to herein, and any such representations, understandings or agreements are superseded by this Agreement. No evidence of any such representations, understandings or agreements shall be admissible in any proceeding of any kind or nature relating to the terms or conditions of this Agreement or its interpretation or breach.

6. This Agreement is made and entered into for the sole protection and benefit of the signatory parties. No other persons shall have any right of action based upon any provision of this Agreement except for the parties' respective successors and assigns.

7. Each Party hereby represents and warrants to the other that the person executing this Agreement on its behalf has the authority to bind that party. For convenience, the parties may execute this Agreement on separate signature pages, which, when attached hereto, shall constitute one complete agreement.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and wholly to be performed within the State of California, without giving effect to conflict of law or choice of law provisions under California law or any other jurisdiction.

9. The parties agree that this Agreement may not be varied in its terms by an oral agreement or representation or otherwise, and may only be amended or modified by an instrument in writing executed by all parties.

10. Each party agrees that it will bear its own costs and expenses (including attorneys' fees and costs) incurred in connection with this Agreement.

11. Any notice, demand, request or other communication required or permitted to be given under this Agreement, (a) shall be made in writing, (b) shall be delivered by one of the following methods: (i) by personal delivery (with notice deemed given when delivered personally); (ii) by overnight courier (with notice deemed given upon written verification of receipt); or (iii) by certified or registered mail, return receipt requested (with notice deemed given upon verification of receipt); and (c) shall be addressed to a party as provided in this Section or such other address as such party may request by notice given in accordance with the terms of this Section.

Notice to Atherton shall be provided as follows:

City Manager
91 Ashfield Road
Atherton, CA 94027

Notice to Facebook shall be provided as follows:

Facebook, Inc.
1601 Willow Road
Menlo Park, California 94025
Attention: Director of Facilities

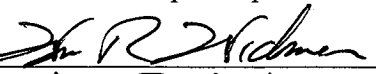
With a copy to:

Facebook, Inc.
1601 Willow Road
Menlo Park, California 94025
Attention: Real Estate Counsel

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the day and year first above written.

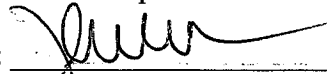
ATHERTON:

TOWN OF ATHERTON,
a California municipal corporation

By: 
Name: Wm. R. Widmer
Title: Mayor

FACEBOOK:

FACEBOOK, INC.,
a Delaware corporation

By: 
Name: John Tenanes
Title: Director Real Estate

